

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

ROBERT LEE TIBBS, JR.,)	
)	
Petitioner,)	CIV 04-2140 PHX JWS
)	
vs.)	ORDER AND OPINION
)	
ARIZONA DEPARTMENT OF)	[Re: Report and Recommendation]
CORRECTIONS, <i>et al.</i>,)	
)	
Respondents.)	
_____)	

I. MATTER PRESENTED

At docket 1, Robert Lee Tibbs, Jr., filed a *pro se* petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254 against the State of Arizona, the Arizona Department of Corrections and the Arizona Attorney General. At docket 9, Tibbs filed an amended petition terminating the State of Arizona as a respondent. At docket 16, the remaining respondents filed a response to Tibbs's petition. At docket 24, Tibbs filed a reply in support of his petition. Magistrate Judge David K. Duncan filed his report and recommendation at docket 25. No objections to the report and recommendation have been filed.

II. STANDARD OF REVIEW

The district court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.”¹ When reviewing a magistrate judge’s

¹28 U.S.C. § 636(b)(1).

report and recommendation in a habeas case, the district court reviews *de novo* conclusions of law² and findings of fact to which parties object.³ The court reviews for clear error uncontested findings of fact.⁴

III. DISCUSSION

Having reviewed the report and recommendation under the standard articulated above, the court adopts it. The petition is **DENIED** and **DISMISSED with prejudice**.

DATED at Anchorage, Alaska, this 14th day of October 2005.

/s/
JOHN W. SEDWICK
UNITED STATES DISTRICT JUDGE

²*Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989), *overruled on other grounds by Simpson v. Lear Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir. 1996).

³28 U.S.C. § 636(b)(1).

⁴*Taberer v. Armstrong World Indus., Inc.*, 954 F.2d 888, 906 (3d Cir. 1992).